

AMENDED IN ASSEMBLY MAY 10, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 733**

**Introduced by Assembly Member Nation**

February 17, 2005

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An act to amend Section 43.92 of the Civil Code, relating to personal rights.

LEGISLATIVE COUNSEL'S DIGEST

AB 733, as amended, Nation. Psychotherapists: duty to warn.

Existing law provides that no monetary liability and no cause of action shall arise against a psychotherapist, as defined, for failing to warn and protect from a patient's threatened violent behavior except where the patient has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims.

This bill would revise that provision to specify that it applies where the patient himself or herself has communicated the threat to the psychotherapist. *The bill would also encourage a therapist, if a patient's threat has been communicated to the therapist by a third party, to contact the patient to the extent that the therapist reasonably believes is necessary to assess whether the patient poses a serious threat of physical violence against a reasonably identifiable victim or victims. The bill would specify that the amendments apply only to actions filed on or after January 1, 2006.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 43.92 of the Civil Code is amended to read:

43.92. (a) There shall be no monetary liability on the part of, and no cause of action shall arise against, any person who is a psychotherapist as defined in Section 1010 of the Evidence Code in failing to warn of and protect from a patient's threatened violent behavior or failing to predict and warn of and protect from a patient's violent behavior except where the patient himself or herself has communicated to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim or victims.

(b) If there is a duty to warn and protect under the limited circumstances specified above, the duty shall be discharged by the psychotherapist making reasonable efforts to communicate the threat to the victim or victims and to a law enforcement agency.

*(c) Notwithstanding subdivision (a), if a patient's threat has been communicated to the therapist by a third party, the therapist is encouraged, but not required, to contact the patient to the extent that the therapist reasonably believes is necessary to assess whether the patient poses a serious threat of physical violence against a reasonably identifiable victim or victims.*

*(d) The amendments made to this section by the act adding this subdivision shall apply only to actions filed on or after January 1, 2006.*